IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 33578 of 2007(V)

PETITIONER:

---

1. N.MOIDU,S/O.MOHAMMED
   MANAGING PARTNER, MALABAR SAW MILLS
   VADANAMKURISSI, PALAKKAD DISTRICT

2. N.HAMZA, ,S/O.MOHAMMED
   PARTNER, MALABAR SAW MILLS
   VADANAMKURISSI, PALAKKAD DISTRICT

BY ADV. SRI.SOJAN JAMES

RESPONDENTS:

---

1. THE INTELLINGENCE OFFICER (IB) II
   COMMERICIAL TAXES, KOZHIKODE

2. THE SALES TAX APPELLATE TRIBUNAL
   ADDITIONAL BENCH, KOZHIKODE.

BY ADV. SRI. GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC , J

==========

W.P.(C). NO. 33578 OF 2007

==========

Dated this the 14th day of November, 2007.

JUDGMENT

Exts.P4 and P4(a), the stay orders passed by the Tribunal, is under challenge. By these orders, the stay was granted on condition that the petitioner remits Rs.50,000/- each and furnishes security for the balance amount. The petitioner submits that the total tax due is only Rs.1,61,820/- and that the balance amount claimed is towards the penalty that was imposed. According to the petitioner, penalty could not have been imposed and hence the condition now imposed by the Tribunal requiring deposit of 50% is not justified.

2. However, these are matters for the appellate authority to consider. At the time when the stay petitions were heard, the appellate authority has, in exercise of his discretionary power, granted stay, by the impugned order. Having gone through the orders and on appreciation of the contentions, I do not see any perversity in the order. Writ petition is only to be dismissed and I do so. However, the time granted in Exts. P5 and P6 for remittance will stand extended by two weeks from today.

The writ petition is accordingly dismissed.

ANTONY DOMINIC, JUDGE.

rv